Grant County Fire Protection District 3

POLICY AND PROCEDURE

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1. NUMBER: 5.3.02

2. SUBJECT: ***Harassment /Nondiscrimination***

3. POLICY: It is the policy of the District to provide a work environment for all of its employees, which is harmonious and free from Discrimination on the basis of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability. The department strictly prohibits all forms of Discrimination including Harassment and Sexual Harassment. Employees who report Discrimination, or who participate in related investigations are entitled to protection from any form of Retaliation. Any employee responsible for violations of this policy or any form of retaliatory conduct may be subject to disciplinary action, up to and including termination. This Policy and Procedure is established to define that process.

4. SCOPE: This Policy and Procedure is applicable to all personnel of the District.

5. RESPONSIBILITIES:

   A. The District Fire Chief is responsible for ensuring that this Policy and Procedure is followed.
   B. All personnel are responsible for complying with this Policy and Procedure.

6. DEFINITIONS:

   A. SUPERVISOR: A Supervisor is defined as any person with immediate or successively higher authority over the complainant who has employment authority over the complainant. Employment authority includes the ability to hire, discipline, discharge, promote, or alter wages of the complainant. It may also include someone in a position to give orders to or exert control over the complainant's day-to-day working activities.

   B. MANAGEMENT: The immediate or first level Supervisor and other managers in the direct line of authority who are not involved in the alleged Harassment or Discrimination.

   C. EXTERNAL FACING PROGRAMS AND SERVICES: Any formal or informal activity of the District that involves direct contact and interaction with the public.

   D. RETALIATION: Acts of reprisal such as: open hostility, exclusion, ostracism, or discriminatory treatment of the complainant, participant(s), or other(s) involved;

creation of, or the existence of a hostile work environment; negative remarks based on race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability about the complainant or others involved; assignment of the complainant, participant or others to demeaning duties not otherwise performed; tokenism or patronizing behavior; or subtle Harassment.

E. RETALIATION PROHIBITED: Grant County Fire Protection District No. 3 will not retaliate against anyone who takes action to oppose discrimination, files a grievance, or participates in the investigation of a grievance related to potential violations of state and federal laws against discrimination

F. TANGIBLE EMPLOYMENT ACTION: A significant change in the employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities or a decision causing a significant change in benefits.

G. DISCRIMINATION: Adverse treatment of a person or group of people based on their status as a member of the legally protected classifications of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability. The term Discrimination includes Harassment and Sexual Harassment.

H. HARASSMENT: Harassment is a form of Discrimination that includes verbal, visual, or physical conduct that denigrates or shows hostility or aversion toward an individual because of such individual's protected status with regards to race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability that:

1. Has the purpose or effect of creating an Intimidation, Hostile, or Offensive Work Environment.
2. Has the purpose or effect of unreasonably interfering with an individual's work performance.
3. Otherwise adversely affects an individual's employment opportunities.
4. Unreasonably interferes with an individual's participation in an External Facing Program or Activity.

I. SEXUAL HARASSMENT: Sexual Harassment is a form of Discrimination that the Equal Employment Opportunities Commission (EEOC) defines as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct

of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an Intimidating, Hostile, or Offensive Working Environment.
4. Such conduct is made either explicitly or implicitly a term or condition of, or unreasonably interferes with, an individual's participation in an External Facing Program or Activity.

J. UNWELCOME: As a basic rule, "unwelcomeness" is measured by objective evidence, rather than subjective, uncommunicated feelings. It can be explicitly communicated by the complainant or exhibited through non-verbal communication, such as walking away from improper behavior, shrugging of shoulders, tensing up, etc.

K. INTIMIDATING, HOSTILE, OR OFFENSIVE WORKING ENVIRONMENT: A workplace which contains:

1. Severe, pervasive, or repeated unwelcome jokes, sexually-oriented jokes, innuendoes, obscenities, pictures or any action with sexual connotation, discriminating connotation oriented towards an individual's race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability which has the cumulative effect of making an employee feel uncomfortable in the workplace, or
2. Aggressive behavior in the workplace that is directed toward an employee based on the employee's race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

6. PROCEDURE:

A. Workplace Discrimination and Harassment Prohibited: It is the policy of the District to provide a work environment for all of its employees, which is harmonious and free from Discrimination on the basis of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a

disability. The department strictly prohibits all forms of Discrimination including Harassment and Sexual Harassment. Employees who report Discrimination, or who participate in related investigations are entitled to protection from any form of Retaliation. Any employee responsible for violations of this policy or any form of retaliatory conduct may be subject to disciplinary action, up to and including termination.

B. Prohibition of Discrimination and Harassment in External Facing Programs and Services: Grant County Fire Protection District No. 3 complies with state and federal laws against discrimination and provides its programs and services without discriminating against employees or members of the public based on race, creed, color, national origin, citizenship or immigration status, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability and other protected statuses under the law.

C. Retaliation Prohibited: Grant County Fire Protection District No. 3 will not retaliate against anyone who takes action to oppose discrimination, files a grievance, or participates in the investigation of a grievance related to potential violations of state and federal laws against discrimination.

D. Public Notices: Grant County Fire Protection District No. 3 shall make available to the public the Notice of Nondiscrimination in the form attached as Exhibit A to this Policy.

E. Prohibited Discrimination: The following conduct may be defined as Discrimination and is strictly prohibited by this policy. Employees engaging in these types of conduct may be in violation of federal and state law as well as department policy whether the conduct is directed toward other District personnel or toward members of the public. Employees found to have engaged in the following may be subject to disciplinary action, up to and including termination.

1. Disparate treatment. This form of Discrimination involves situations where a Supervisor requires that an employee's race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability be considered as a condition for employment benefits such as promotion or a pay increase. Disparate treatment is established when the employee who does not belong to the preferred class is made to suffer some negative Tangible Employment Action regarding

compensation, terms, conditions or privileges of employment. Disparate treatment may be present when the facts establish that:

a. The employee was subjected to differential treatment from other employees in similarly situated or identical job classifications.
b. The differential treatment was because of the employee's race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.
c. The differential treatment affected a tangible aspect of compensation, terms, conditions or privileges of employment.
d. The discriminator was in a Supervisory or Management position.
e. Examples of disparate treatment may include, but are not limited to, the following:
f. Supervisor denies promotion to an employee based on the employee's race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.
g. Supervisor demotes an employee based on the employee's race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

2. Hostile Work Environment. This form of Discrimination involves conduct by co-workers or Supervisors which unreasonably interferes with an employee's work performance or creates an Intimidating, Hostile, or Offensive Working Environment. This form of Discrimination need not have any tangible economic consequence to the employee. If the actions of co-workers or Supervisors sufficiently or pervasively create a working environment severe enough to alter the condition of the employee's employment, Discrimination may have occurred. A Hostile Environment may be present when the facts establish that:

a. Employee was subjected to conduct based on employee's race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability and:
    1) The conduct was Unwelcome.
    2) The conduct was sufficiently severe or pervasive so as to alter the condition of the employee's employment and

create an Intimidating, Hostile, or Offensive Working Environment.

b. Examples of a hostile work environment, when such is based on the employee's race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, include, but are not limited to, the following:
   1) Suggestive or insulting comments, sounds, or innuendos.
   2) Materials, posters, photographs or drawings.
   3) Pervasive humor or jokes about traits specific to the employee's race, color, creed, religion, sex, sexual orientation, national origin, age, marital status, or sensory, mental or physical disability; and
   4) Repeated offensive comments or gestures.
   5) Sexual innuendo.
   6) Repeated lewd comments or gestures.
   7) Constant pressure to date or have an affair.
   8) Unwelcome or unnecessary touching, pinching or brushing of the body.

3. Disparate Impact Discrimination. Whereas disparate treatment is the use of overt, intentional classifications that favor one group over another, disparate impact refers to Discrimination that occurs during the use of facially neutral practices (not necessarily adopted for discriminatory reasons) that have the effect of disfavoring one group. For instance, requiring that applicants be six feet tall where there is no established bona fide occupational qualification has disparate impact on women and members of ethnic groups that are not characterized by a great average height.

4. Sexual Harassment. The following conduct is defined as Sexual Harassment and is strictly prohibited by this policy. Employees engaging in these types of conduct may be in violation of federal and state law as well as department policy. Employees found to have engaged in the following may be subject to disciplinary action, up to and including termination. Sexual Harassment may be established when the facts establish that:
   a. An employee or member of the public was subjected to unwelcome conduct based on the individual's sex or sexual orientation.
   b. The conduct affected a tangible aspect of compensation, terms, conditions or privileges of employment or affected a member of the public within the scope of an External Facing Program or Service.

5. Quid Pro Quo Harassment. This form of Sexual Harassment involves situations where a Supervisor demands sexual favors in exchange for employment benefits such as a promotion or a pay increase or, conversely, disciplines or penalizes an employee who refuses to submit to sexual demands. Harassment is established when the employee who refuses to submit to sexual demands is made to suffer some negative Tangible Employment Action such as compensation, terms, conditions or privileges of employment. Examples of quid pro quo Harassment include, but are not limited to, the following:
   a. Supervisor promises promotion if employee agrees to a sexual relationship.
   b. Supervisor demotes employee who refuses to have a sexual relationship.
   c. Employee A is coerced into submitting to unwelcome sexual advances with his Supervisor in return for a promotion. Employee B may be able to prove a violation of this policy by showing that granting sexual favors was a prerequisite to obtaining that promotion and that employee B was denied the promotion because of this prerequisite.

F. What May not be Discrimination, Harassment or Sexual Harassment: Although the definition of Discrimination, Harassment and Sexual Harassment, is quite broad, there are several things which are not considered to be claims for Discrimination, Harassment or Sexual Harassment:

1. Welcome Conduct. Whenever actions are welcomed, there is no claim for Discrimination, Harassment or Sexual Harassment. However, what is welcome to one co-worker or member of the public may not be welcome to another exposed to the same conduct. Also, what begins as welcome conduct may become unwelcome later.
2. Hypersensitive Individuals. The validity of a claim for Discrimination, Harassment or Sexual Harassment is going to be measured from the perspective of a reasonable person/victim, not subjectively based on what a hypersensitive individual may believe.
3. Personality Conflicts. The mere fact that two individuals, do not get along because of personality differences does not equal Discrimination, Harassment or Sexual Harassment. If the difference in the race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability of the two individuals is coincidental, rather than causing the Discrimination, Harassment or Sexual Harassment, there is no Discrimination, Harassment or Sexual Harassment.

G. Reporting Discrimination Harassment and Sexual Harassment in the Workplace: The conditions and circumstances of each instance of discriminatory conduct, including Harassment and Sexual Harassment will be unique. If an employee is uncertain if he or she has been experiencing Discrimination, Harassment or Sexual Harassment the Fire Chief or designee is available for assistance. Reporting Responsibilities. All employees are required to report concerns of Discrimination, Harassment or Sexual Harassment in the following situations:

1. Any employee who believes that he/she has been the subject of Discrimination, Harassment or Sexual Harassment is required to report the incident(s) or working conditions immediately in accordance with the Reporting Procedures set forth below.
2. Employees who are not personally victims of Discrimination, Harassment or Sexual Harassment, but who observe actions, which they have interpreted to be Discrimination, Harassment or Sexual Harassment or offensive conduct in violation of this policy, are required to immediately report such matters to Management.
3. Supervisors and members of Management are required to report observations, which they have interpreted to be Discrimination, Harassment or Sexual Harassment or offensive conduct in violation of this policy.

Prohibition on Retaliation For Reporting. All employees are to refrain from retaliating against the complainant, witness(es) or others for coming forward with the complaint.

Prohibition on Malicious False Reporting. No employee shall willfully and with malice bring forth or threaten to bring forth a false accusation of Discrimination, Harassment or Sexual Harassment contemplated solely to damage, harm, “get even with”, or otherwise intimidate a co-worker, Supervisor or manager.

Malicious false accusations will result in the accuser receiving disciplinary action, up to and including termination.

H. Internal Reporting Procedures: The reporting procedure is meant to provide an employee some guidance through the District’s organizational structure in the terms of its line of authority. If at any time the employee has reason to believe that following this procedure in the sequence outlined below would be futile or would result in Retaliation, the employee may bypass the sequence outlined and choose the reporting step which would most appropriately address the employee’s concerns.

Reporting Individuals Responsibility. Clearly inform the "harasser" that his or her behavior is inappropriate, offensive, unwelcome, and should immediately cease.

Bring the matter to the attention of the first level department Supervisor or manager in the employee's direct line of authority who is not involved in the alleged Discrimination, Harassment or Sexual Harassment. Include the following information whenever possible:

1. Name(s) of the alleged offender(s)
2. A description of the event(s) of Discrimination, Harassment or Sexual Harassment
3. Date(s), time(s), and location(s) of the occurrence(s)
4. Name(s) of witnesses to the occurrence(s)
5. Remedy desired

It shall be the responsibility of any employee reporting allegations of Discrimination, Harassment or Sexual Harassment, any employee accused of Discrimination, Harassment or Sexual Harassment, or any witnesses to alleged Discrimination, Harassment or Sexual Harassment to fully cooperate with Management in its investigation of complaints and maintain confidentiality of the matter.

Supervisor Responsibilities. All reports of alleged Discrimination, Harassment or Sexual Harassment in violation of this policy received by a Supervisor shall be promptly referred to the Fire Chief to initiate an investigation or to recommend an appropriate course of action.

I. Reporting Discrimination Harassment and Sexual Harassment in External Facing Programs and Services: All Employees shall be required to report instances of Discrimination Harassment and Sexual Harassment in External Facing Programs and Services using the same process and under the same requirements established for reporting workplace Discrimination Harassment and Sexual Harassment.
Members of the public are encouraged to report Discrimination Harassment and Sexual Harassment in External Facing Programs and Services pursuant to the process set forth in Exhibit A. Complaints shall be filed within 180 days of the occurrence of the alleged conduct.
Upon receipt a complaint, the District shall provide written confirmation of receipt of the complaint to the complainant within ten (10) business days. All complaints will be investigated consistent with the investigation procedure contained in this policy.

The District shall track all complaints received.

J. Investigation Procedures: When a Supervisor or the Chief or designated contact for complaints from the public is notified of alleged Discrimination, he or she will promptly investigate the complaint or work with the Fire Chief or Board of Commissioners to secure the services of an outside investigator. The investigation will include interviews with the directly involved parties, and where necessary, personnel who may have observed the alleged Discrimination or who may be similarly situated with the complaining employee (such personnel may be able to testify to their experiences with the accused). In the event the initial notification is made to the Board of Commissioners the Board or its designated representative shall conduct the investigation. If a member of the board of commissioners is accused of alleged Discrimination, the member shall be disqualified to conduct the investigation and from participating in the deliberations of the board when it is considering or approving corrective action.

K. Confidentiality: Any report of Discrimination, Harassment or Sexual Harassment and its investigation is confidential, except as subject to state and federal laws relating to public information and disclosure. Dissemination of confidential information shall be limited to persons with a "need to know" to participate in the investigation or to implement any action resulting from the investigation. If discipline is anticipated, it may be necessary to disclose the name of the complaining employee and evidence of Discrimination, Harassment or Sexual Harassment to the employee accused of Harassment or Discrimination. Records pertaining to the investigation shall be maintained in a file separate from the complainant's personnel file. Documents of disciplinary actions resulting from Discrimination, Harassment or Sexual Harassment claims will be maintained in accordance with the Maintaining Discipline Policy.